

BEFORE THE

ORIGINAL

Federal Communications Commission

WASHINGTON, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Caldwell, College Station and Gause, Texas)

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MM Docket No. 91-58
RM-7419
RM-7797
RM-7798

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF KRTS, INC.

KRTS, Inc., ("KRTS") licensee of Station KRTS(FM), Seabrook, Texas, hereby comments on the above-captioned matter in response to the Commission's "Request for Supplemental Comments in Response to Court Remand," released on April 9, 1999.¹ KRTS's purpose in commenting here is simply to urge that this matter be resolved as quickly as possible. Resolution of this matter has already been too-long delayed, a circumstance which affects not only the parties advocating allotment revisions in this proceeding, but also other stations that have been prevented from implementing planned upgrades because parties to this proceeding have yet to vacate allotments that were deleted from the FM Table years ago. This circumstance has effectively denied improved broadcast service to large numbers of radio listeners in East Texas, a result that is clearly contrary to the public interest.

The current circumstances have their origins in 1988, when Bryan Broadcasting License Subsidiary, Inc. ("Bryan") filed a counterproposal in MM Docket No. 88-48 seeking the

¹ In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Caldwell, College Station and Gause, Texas), Request for Supplemental Comments in Response to Court Remand MM Docket No. 91-58 (RM-7419, RM-7797, RM-7798) (released April 9, 1999) ("Request").

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substitution of Channel 235C2 for Channel 221A at College Station and the modification of its license to reflect this upgrade. In May of 1989, as part of a global resolution of the numerous proposals and counterproposals filed in that docket, Bryan withdrew its request for Channel 235C2 and expressed its interest in the alternative allotment of Channel 297C3. Acting on this request, the FCC issued an order, effective June 7, 1990, which instructed KTSR to file a minor change application to effect the upgrade within ninety days of the effective date.²

The required minor change application was filed and a construction permit was granted on November 20, 1990 (FCC File No. BPH-900706IB). However, instead of proceeding to construct the new facility, KTSR once again requested the allotment of a class C2 facility at College Station, this time on Channel 236. This request was treated as a counterproposal in this docket, in which Roy E. Henderson had proposed to substitute Channel 236C2 for Channel 236A at Caldwell, Texas and to modify his license for Station KHEN accordingly. Bryan's proposal was adopted by the Commission in 1995 in the initial *Report and Order* in this proceeding.³ Ensuing appeals by Mr. Henderson have consumed the intervening four years.

Meanwhile, KRTS sought and received an upgrade of its Seabrook, Texas facility to Channel 221C1,⁴ relying on the change in the Table of Allotments originally made in 1990 in

² See Arlington, Texas et al. (MM Dkt. No. 88-48), 5 FCC Rcd 2660 (Pol. & Rul. Div. 1990), rev. denied, 6 FCC Rcd 2050 (1991), recon denied, 8 FCC Rcd 4281 (1993).

³ See Caldwell, Texas et al. (MM Dkt. No. 91-58), 10 FCC Rcd 7285 (Alloc. Br. 1995).

⁴ See Seabrook, Texas (MM Dkt. No. 91-180), 10 FCC Rcd 9360 (1995).

MM Docket No. 88-48 and upheld in 1993. On September 26, 1995, KRTS received a construction permit for this upgrade. Yet three and a half years later, this permit has still not been fully implemented, despite the fact that KRTS has gone to extraordinary lengths to build its improved facilities. Full power operation has been blocked because the KRTS construction permit prohibits it from operating at 100 kW ERP on Channel 221C1 until KTSR has vacated this channel. Currently, KRTS is operating pursuant to an interim authorization at a reduced ERP of 50 kW.

KRTS is participating here because it is in agreement with the Commission that any decision in this matter should have the “benefit of comment from all interested parties in this proceeding.”⁵ Given the impediments to KRTS Class C1 service upgrade that have been posed by the long history of this proceeding and Station KTSR’s consequent continuing operation on Channel 221A, KRTS is such an interested party. Bryan is unlikely to vacate Channel 221 absent Commission action determining which of its two upgraded allotments is available to it. Moreover, the lack of final resolution of this matter is preventing significant service upgrades in addition to the KRTS facility⁶ — Nicol Broadcasting, Ltd. has been prevented from modifying the facilities of Station KMBV(FM), Navasota, Texas as well.⁷

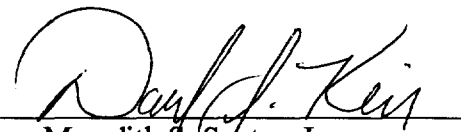
⁵ Request at ¶ 4.

⁶ Indeed, KRTS understands that it is FCC policy not to grant construction permit extensions when the failure to implement the authorized change is blocking other service upgrades.

⁷ KMBV holds a construction permit to change transmitter location and increase antenna height in order to improve its service to the public (File No. BPH-
(continued...))

The Commission has long recognized that the public interest is served by the prompt construction of broadcast facilities.⁸ Given this fundamental policy, the Commission should take into consideration the fact that expedited handling of this proceeding would produce significant improvements in broadcast service to the public by allowing both KRTS and Nicol, and perhaps others, to complete long-delayed facilities upgrades. KRTS therefore strongly urges the Commission to act on this matter as quickly as possible, so that these long-awaited service enhancements may finally be realized.

Respectfully submitted,

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⁷(...continued)

970210IB). Like KRTS, KMBV cannot implement this upgrade until KTSR vacates Channel 221.

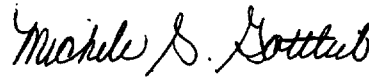
⁸ See, e.g., Golden Eagle, 6 FCC Rcd 5127, 5129 (1991).

CERTIFICATE OF SERVICE

I, Michele S. Gottlieb, do hereby certify that a true copy of the foregoing Comments Of KRTS, Inc., was mailed by first-class mail, postage prepaid, this 29th day of April, 1999, to the following:

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